

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

ARIEL GRANT, et al.,	)	
	)	
Plaintiffs,	)	
	)	NO. 3:21-cv-00104
v.	)	
	)	JUDGE RICHARDSON
DAVID’S CONSTRUCTION, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Pending before the Court are two stipulations of dismissal, and a notice of voluntary dismissal, filed pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and 41(a)(1)(A)(i) respectively. (Doc. Nos. 71, 72, 73, collectively “Dismissal Documents”). As construed by courts in this circuit, Rule 41(a) pertains to dismissal of all claims against all defendants, not to dismissing a subset of defendants such as contemplated in the Dismissal Documents.<sup>1</sup> Furthermore, Rule 41(A)(1)(a)(i) applies only when neither an answer nor a motion for summary judgment has been filed, and an answer has been filed in this case. Thus, dismissal of the implicated Defendants was not effectuated by the Dismissal Documents.

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<sup>1</sup> Rule 21 provides that the Court may at any time, on motion or on its own, add or drop a party or claim. The Sixth Circuit has indicated that dismissal of one or more parties, rather than of an entire action, is more proper pursuant to Fed. R. Civ. P. 21. *AmSouth v. Dale*, 386 F.3d 763, 778 (6th Cir. 2004); *Sheet Metal Workers’ Nat. Pension Fund Bd. of Trustees v. Courtad, Inc.*, No. 5:12-CV-2738, 2013 WL 3893556, at \*4 (N.D. Ohio July 26, 2013) (“A plaintiff seeking to dismiss only one defendant from an action must move the Court to do so under Rule 21”). Other circuits disagree, but district courts in this circuit routinely apply Rule 21, rather than Rule 41, when dismissing fewer than all defendants or claims. *United States ex rel. Doe v. Preferred Care, Inc.*, 326 F.R.D. 462, 464 (E.D. Ky. 2018) (citing cases). So dismissal under Rule 41(a) is dismissal of an entire action, not dismissal of some but not all claims or dismissal of some but not all defendants.

The parties may wish to remedy the situation by filing a single motion to drop specified Defendants under Rule 21, and to state therein the views regarding such motion of any Defendant(s) that would not be dismissed upon the grant of such motion.

IT IS SO ORDERED.

  
ELI RICHARDSON  
UNITED STATES DISTRICT JUDGE